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Filing date: **02/25/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

### Petitioner Information

Name	Prosper Funding, LLC		
Entity	Limited Liability Company	Citizenship	Delaware
Address	221 Main Street, 3rd Floor San Francisco, CA 94105 UNITED STATES		
Attorney information	Robert P. Lord Osha Liang LLC 909 Fannin Street Suite 909 Houston, TX 77010 UNITED STATES docketing@oshaliang.com Phone:713-228-8600		

### Registration Subject to Cancellation

Registration No	3845780	Registration date	09/07/2010
Registrant	Prosper Growth Partners, LLC 10375 Richmond Avenue Houston, TX 77042 UNITED STATES		

### Goods/Services Subject to Cancellation

Class 036. First Use: 2008/09/00 First Use In Commerce: 2008/09/00 All goods and services in the class are cancelled, namely: Investment advisory services; Investment management
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### Grounds for Cancellation

Abandonment	Trademark Act section 14
Related Proceedings	Cancellation against 3842187
Attachments	Cancellation PROSPER 3845780.pdf(36135 bytes )

## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Robert P. Lord/
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Name	Robert P. Lord
Date	02/25/2016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

PROSPER FUNDING, LLC,  Petitioner,  v. PROSPER GROWTH PARTNERS, LLC,  Registrant.	Proceeding No.: _____  Registration No.: 3,845,780  Mark: PROSPER  Registration Date: September 7, 2010  Petitioner's Ref. No.: 18289/049001
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Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

**PETITION FOR CANCELLATION**

Petitioner Prosper Funding LLC (“Petitioner”), a Delaware Limited Liability Company, having an address of 221 Main Street, 3<sup>rd</sup> Floor, San Francisco, California, 94105, believes that it will be damaged by the continued registration of U.S. Trademark Reg. No. 3,845,780, the mark PROSPER, having a services description of “Investment advisory services; investment management,” in International Class 36, and hereby petitions to cancel the same.

As grounds therefore, Petitioner alleges as follows:

1. On information and belief, Prosper Growth Partners, LLC, a Texas limited liability company, having an address of 10375 Richmond Avenue, Suite 920, Houston, Texas 77042 (“Respondent”), is the owner of U.S. Trademark Reg. No. 3,845,780, claiming a date of first use of September 30, 2008 (“Respondent’s Mark”).

2. Petitioner provides financial services in the field of financial planning and management in the fields of consumer lending services, and facilitating and arranging for the financing of consumer loans and evaluation of credit bureau data and evaluation of the credit worthiness of private individuals, among others.

3. Petitioner is the owner of record for U.S. Trademark Reg. No. 3,374,113 for the mark PROSPER, issued on January 22, 2008 in Class 035, for “online website services relating to matching borrowers with potential lenders in the field of consumer lending in an auction-type environment via a global computer network.” A Section 15 Declaration was accepted by the United States Patent and Trademark Office (“USPTO”) on January 24, 2013.

4. Petitioner is the owner of record for U.S. Trademark Reg. No. 3,277,812, for the mark PROSPER, issued on August 7, 2007 in Class 038, for “Telecommunications services, namely electronic transmission of data and messages; Online interactive bulletin board and chat room for transmission of messages among users concerning financial matters.” A Section 15 Declaration was accepted by the USPTO on February 7, 2013.

5. Petitioner is the owner of record of U.S. Trademark Application No. 86/413,839 for PROSPER, filed on October 3, 2014, and claiming a date of first use of February 5, 2006, for “providing online information in the field of financial planning and management in the fields of consumer lending services; facilitating and arranging for the financing of consumer loans; facilitating and arranging for the financing of consumer loans; evaluation of credit bureau data and evaluation of the credit worthiness of companies and private individuals” in International Class 036.

6. Petitioner's registered trademarks and pending applications, as described in paragraphs 3-5, above ("Petitioner's Marks"), are symbolic of extensive good will and consumer recognition built up by Petitioner through substantial amounts of time and effort in advertising and promotion. Petitioner has been in the financial industry since at least as early as 2006. Petitioner is America's first peer-to-peer lending marketplace, with more than two million members and over \$6,000,000,000 in funded loans. Petitioner also handles the servicing of loans on behalf of the matched borrowers and investors. Petitioner's dates of first use in commerce for its PROSPER marks are well prior to the date of first use alleged in Respondent's registration. Petitioner's rights are, therefore, paramount and superior to Respondent's rights. Petitioner and Respondent are not connected or affiliated in any way.

7. A likelihood of confusion under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d) exists between Respondent's Mark and Petitioner's Marks because the dominant feature of the respective marks, "PROSPER," is identical. Petitioner alleges that the services Respondent is currently offering constitute services substantially related to Petitioner's services through the same or similar channels of trade. Consumers familiar with Petitioner's Marks and services are likely to believe Respondent's services to originate from, be endorsed by, or otherwise sponsored by Petitioner. Respondent's Mark, therefore, creates a confusingly similar commercial impression with Petitioner's Marks.

8. Respondent's Mark so resembles Petitioner's Marks as to be likely to create a false designation of origin and false or misleading representation of fact that is likely to cause confusion, or to cause mistake, or to deceive as to an affiliation, connection, or association between Petitioner and Respondent. Any objection or fault with the goods and services offered in

connection with Respondent's mark may reflect upon and seriously injure Petitioner's reputation in connection with the goods and services offered in connection with Petitioner's Marks.

9. The continued registration of Respondent's Mark is a source of ongoing damage and injury to Petitioner.

WHEREFORE, Petitioner respectfully requests that its Petition for Cancellation be sustained and that U.S. Trademark Registration No. 3,845,780 be canceled.

Dated: February 25, 2016

Respectfully submitted,

OSHA LIANG, LLP

By: /Robert P. Lord/  
Robert P. Lord

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**CERTIFICATE OF SERVICE**

It is hereby certified that on February 25, 2016, a copy of the foregoing **PETITION FOR CANCELLATION** was sent by first class mail, postage prepaid to the representative designated by the owner of record of U.S. Trademark Reg. No. 3,845,780 at the correspondence address of record obtained from the TSDR, as follows:

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*Attorneys for Respondent, Prosper Growth Partners, LLC*

/Robert P. Lord/

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